

BILL ANALYSIS

C.S.H.B. 2998
By: Smith
Licensing & Administrative Procedures
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Incorporating into a limited liability company (LLC) or an S corporation can provide certain financial benefits to individuals and business entities alike. However, in Texas, the law limits the ability of real estate professionals and the entities they operate to take full advantage of these benefits by requiring redundant licensing. C.S.H.B. 2998 seeks to allow real estate professionals to take advantage of the benefits of operating as a business entity, while still protecting the public, by establishing the circumstances under which an LLC or S corporation is not required to be licensed under The Real Estate License Act.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Real Estate Commission in SECTION 1 of this bill.

ANALYSIS

C.S.H.B. 2998 amends the Occupations Code to exempt a limited liability company (LLC) or S corporation from licensure under The Real Estate License Act if the entity meets the following criteria:

- receives compensation on behalf of a licensed broker or sales agent that is earned by the license holder while engaged in real estate brokerage;
- performs no other acts of a broker;
- is registered with the Texas Real Estate Commission (TREC); and
- is at least 51 percent owned by the license holder on whose behalf the entity receives compensation.

The bill requires the TREC to adopt rules providing for that registration.

EFFECTIVE DATE

January 1, 2022.

COMPARISON OF ORIGINAL AND SUBSTITUTE

While C.S.H.B. 2998 may differ from the original in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

Whereas the original exempted a business entity that is operated exclusively under the name of a licensed individual broker from the requirement to hold a business entity license to act as a real estate broker, the substitute exempts from licensure under The Real Estate License Act instead certain LLCs and S corporations that are registered with the TREC and do not perform the acts of a broker other than receiving certain compensation on a broker's or sales agent's behalf. The substitute includes a requirement absent from the original requiring the TREC to adopt rules providing for that registration.

The substitute changes the bill's effective date from September 1, 2021, as in the original, to January 1, 2022.